IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

EUGENE DIVISION

SHARON NETTLETON,

Plaintiff,

v.

ALTA J. BRADY, Judge; ROGER DEHOOG, Judge; A. MICHEAL ADLER, Judge; BETH M. BAGLEY, Judge; STEPHEN P. FORTE, Judge; WALTER RANDOLPH MILLER, Judge; and DESCHUTES COUNTY CIRCUIT COURT,

Defendants.

6:18- cv-00385-JR

OPINION AND ORDER

AIKEN, Judge.

Plaintiff Sharon K. Nettleton challenges the foreclosure of real property located at 60076 Turquoise Road in Bend, Oregon. The Deschutes County Circuit Court's entered a general judgment of foreclosure with an effective date of October 8, 2014.[1] The Oregon Court of Appeals affirmed the foreclosure judgment and the Oregon Supreme Court denied review. A sheriff's sale is scheduled for March 28, 2018.

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[1] The operative foreclosure judgment is a *nunc pro tunc* judgment docketed May 18, 2017.

Before me is plaintiff's petition for writ of mandamus and request for emergency stay. Plaintiff seeks (1) an emergency stay of the sheriff's sale and (2) an order directing the Deschutes County Circuit Court to vacate its judgment of foreclosure. Plaintiff argues that the foreclosing lender failed to produce sufficient proof that it had standing to foreclose, and that the Deschutes County Circuit Court therefore lacked jurisdiction to enter judgment. Plaintiff further contends that the six judges named as defendants in this action conspired to deny her due process, in violation of the United States Constitution.[2]

This case was assigned to Magistrate Judge Russo. Judge Russo construed the request for an emergency stay as a motion for a temporary restraining order ("TRO") under Federal Rule of Civil Procedure 65, and referred the matter to me. For the reasons set forth below, the motion for a TRO is denied and this action is dismissed for lack of subject matter jurisdiction.

The same general legal standards govern temporary restraining orders and preliminary injunctions. Fed. R. Civ. P. 65; *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1347 n.2 (1977). A plaintiff seeking such relief must establish (1) a likelihood of success on the merits; (2) a likelihood of irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in the her favor; and (4) a preliminary injunction is in the public interest. *Winter v. Nat'l Resources Def. Council*, 555 U.S. 7, 20 (2008).

[2] Plaintiff actually cites 18 U.S.C. § 241, a criminal statute prohibiting conspiracy "to injure, oppress, threaten, or intimidate any person in any State . . . in the free exercise or enjoyment of any right or privilege secured . . . by the Constitution or laws of the United States[.]" Federal prosecutors have the sole authority to prosecute the violation of federal criminal law. *United States v. Batchelder*, 442 U.S. 114, 124 (1979). However, because plaintiff is *pro se*, I have construed her petition as alleging violations of her Fourteenth Amendment right not to be deprived of her property without due process of law. *See Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010) (stating that courts have an obligation, "particularly in civil rights cases, to construe the pleadings liberally and to afford the petitioner the benefit of any doubt").

I am bound to deny plaintiff's request for a TRO because she cannot show that she is likely to succeed on the merits of her petition. Plaintiff asks this Court to issue an order "requiring the [Deschutes County Circuit] Court to vacate the void general judgment of foreclosure and all supplemental judgements rendered without jurisdiction to do so." Verified Pet. Writ Mandamus & Emergency Stay 13. That relief would "eviscerate the state court's judgment," in violation of the *Rooker-Feldman* doctrine.

Rooker-Feldman

> is a powerful doctrine that prevents federal courts from second-guessing state court decisions by barring the lower federal courts from hearing de facto appeals from state-court judgments: If claims raised in the federal action are 'inextricably intertwined' with the state court's decision such that the adjudication of the federal claims would undercut the state ruling or require the district court to interpret the application of state laws or procedural rules, then the federal complaint must be dismissed for lack of subject matter jurisdiction.

Bianchi v. Rylaarsdam, 334 F.3d 895, 898 (9th Cir. 2003). "*Rooker-Feldman* bars any suit that seeks to disrupt or undo a prior state-court judgment, regardless of whether the state-court proceeding afforded the federal-court plaintiff a full and fair opportunity to litigate her claims." *Id.* at 901 (internal quotation marks omitted). Put simply, this Court lacks authority to give plaintiff the relief she seeks. If plaintiff wants to mount a federal-court challenge to the state courts' foreclosure judgment, she must do so by petitioning the United States Supreme Court. *See* 28 U.S.C. § 1257 (authorizing United States Supreme Court review of final judgments or decrees rendered by "the highest court of a State in which a decision could be had").

A federal court "ha[s] an ongoing obligation to be sure that jurisdiction exists," *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003), and *must* dismiss an action if "the court determines at any time that it lacks subject-matter jurisdiction," *Chapman v. Pier 1 Imports (U.S.) Inc.*, 631 F.3d 939, 954 (9th Cir. 2011) (quoting Fed. R. Civ. P. 12(h)(3)).

Because it is apparent from the face of the complaint that this Court lacks subject matter jurisdiction over plaintiff's claim, I not only deny the request for a TRO but also dismiss the action.

CONCLUSION

For the reasons set forth above, plaintiff's emergency request for a stay (doc. 1) is DENIED and this case is DISMISSED.

It is so ORDERED.

DATED this 7th day of March 2018.

Ann Aiken
U.S. District Judge